

13 July 2022

Russell Hand  
Principal Planning Officer  
Key Sites Assessments  
Department of Planning and Environment

**Our** R/2020/6/C  
**reference:**

**Your** SSD 10437 MOD 1  
**reference:**

**Subject:** Advice on Modification - Waterloo Metro Quarter OSD - Southern Precinct Detailed Design - SSD 10437 MOD 1

Dear Russell,

Thank you for your correspondence dated 22 June 2022 inviting the City of Sydney Council ("the City") to provide comments on the proposed modification to State Significant Development application SSD 10437. The City has reviewed the proposal and understands the proposed modification is for design modifications to Building 3 and amendments to various conditions as follows:

- External design modifications to rooftop plant zones, additional louvres and service doors
- Internal reconfiguration of core and services within student accommodation areas
- Lift and stair reconfiguration within the gym area
- Additional of a block wall and boom gate to the loading dock driveway
- Landscape changes to Cope Street Plaza, including:
  - ◊ Removal of indicative pergola
  - ◊ Reconfiguration of southern planter wall alignment to improve pedestrian safety and increase soil volume to trees
  - ◊ Reconfiguration of seating bench locations
  - ◊ Adjustment to bollard location to be in line with guidance from security consultant.
- Landscape changes to the rear of Waterloo Congregational Church Boundary, including:
  - ◊ Provide additional landscape area to rear of Waterloo Congregational Church
  - ◊ Removal of raised steel planters to provide seven bike racks

- ◊ Raised planter seating wall
- Landscape changes to Church Yard, including:
  - ◊ Reduction in retaining wall height alongside the Waterloo Congregational Church to improve site visibility and reduce potential construction impacts
  - ◊ Creation of landscape terraces to give the Waterloo Congregational Church access to planting at lower height than previously designed
  - ◊ Additional bike parking behind the Church to achieve the overall bike parking requirement across the site (relocated from the Central Precinct)
  - ◊ Seating and stairs design updated to align to new landscape geometry
- Minor changes to Building 3 Level 2 Terrace, including:
  - ◊ Three proposed trees relocated away from balustrade edge and closer to seating zone
  - ◊ Removal of one proposed tree in the eastern corner as a result of design development and structural coordination requirements
- Amendments to conditions relating to landscaping, remediation, car parking, bicycle parking and end of trip facilities, works as executed drawings and the stormwater completion deed of agreement and positive covenant

The City provides the comments below for your consideration.

### **External design modifications**

No objection is raised in regard to the proposed external modifications to plant areas, louvres of service doors.

### **Internal design modifications**

No objection is raised in regard to the design modifications to the student accommodation areas, gym fitout or driveway.

### **Landscape design modifications**

As provided in correspondence dated 6 May 2021, the City requested to be provided the opportunity to review and respond to any recommended conditions of consent prior to determination. It is disappointing that the City were not consulted on the detailed landscape plans and landscape conditions prior to approval.

Despite the City's advice on wind mitigation at the previous Response to Submissions stage, specifically that the development relies heavily on the success of tree planting to mitigate wind impacts caused by the buildings and the imperative need that all the recommendations of the wind report are incorporated into the conditions of consent, the Development Consent SSD 10437 does not include the

wind report recommendations.

Additionally, there has been no amendment to the Building 3 Level 3 green roof plan to make allowance for minimum soil depths, increased edge and allowance for drainage. Nor has there been any increase in green roofs across rooftops in the precinct.

Further, the proposed design modifications preference the inclusion of bicycle racks in planters relocated from the central precinct, removal of shade (pergola) in the Cope Street Plaza, a vehicular access road promoted as a “shareway” from Cope Street to Church Yard that simply provides access to Building 2 parking spaces and removes tree planting to the Building 3 Level 2 communal open space terrace, due to structural constraints, reducing available shade for residents. Council stresses that as this project is a significant new development, allowances should be made for structural slabs and wet soil loads to provide shade to residents communal open spaces.

Overall, the proposed design modifications are a dilution of the previously approved landscape plans and result in a reduction in landscape quality of private and public spaces. We reiterate that it is disappointing that the City were not consulted on the detailed landscape plans and landscape conditions prior to approval.

## **Design of Public Domain**

Although not specifically not proposed in this application, your attention is drawn to the current design of the public domain along Cope Street. The submitted plans show a garden bed extending the entire width of the Council-owned footpath while pedestrians will be directed onto private land to travel safely along the street. While the formal public domain plans are under consideration by Council, it is important to flag the issue of land ownership and pedestrian access around the site whilst the modification is under assessment. For many reasons including public liability, it is not recommended to have a garden bed obstructing the entirety of the footway, however, where the landscaping design in its current proposed form is supported, it is recommended that the following condition be imposed.

### ***EASEMENT FOR PUBLIC ACCESS – PRIOR TO OCCUPATION CERTIFICATE***

*An easement for public access of variable width limited in stratum shall be created burdening Lot 190 in DP 1257150, and appurtenant to the Council of the City of Sydney pursuant to Section 88B of the Conveyancing Act, 1919. The site of the easement must extent from the alignment of Wellington Street to a simple representation of the southern face of the adjoining Building 3. The lower limit of the easement shall be an inclined plane, or series of planes as necessary, representing the approximate upper surface of the hardstand installed in compliance with the approved landscape plans. The upper limit will be a minimum of 3 metres above the lower limit. The terms of the easement shall be to the satisfaction of council, and may be arranged by Council’s Area Planning Manager upon request.*

*A positive covenant burdening Lot 190 in DP 1257150 and appurtenant to the Council of the City of Sydney, in terms to the satisfaction of Council shall be lodged with the office of NSW Land Registry Services prior to the issue of any stage or final occupation certificate for Building 3. The positive covenant is to be created in terms including the following:*

*a) The owner of lot burdened must effect and maintain public liability insurance in respect of third party personal injury or damage to third party property in or about the Easement for Public Access where the injury arises out or is caused by the use of the Easement for Public Access. The policy must be in the amount of \$20,000,000 for any one occurrence, with an insurer acceptable to the authority benefited, such acceptance not to be unreasonably withheld. The authority benefited may request a copy of the policy at any time with reasonable notice.*

*The terms of the easement shall be to the satisfaction of council, and may be arranged by Council's Area Planning Manager upon request.*

If the garden bed in the footway is to be maintained by the owners of Lot 190, it is recommended that the following condition is imposed.

#### **POSITIVE COVENANT – MAINTENANCE OF LANDSCAPED AREA – PRIOR TO OCCUPATION CERTIFICATE**

*A positive covenant burdening Lot 190 in DP 1257150 and appurtenant to the Council of the City of Sydney, in terms to the satisfaction of Council shall be lodged with the office of NSW Land Registry Services prior to the issue of any stage or final occupation certificate for Building 3. The positive covenant is to be created in terms requiring appropriate and ongoing upkeep and maintenance of the garden bed located in the Wellington Street footway adjacent to Building 3. Upkeep shall include replacement of plants as necessary and in accordance with any directions given by Council's Parks and Gardens staff, at the sole cost of the registered proprietors of Lot 190 in DP 1257150.*

#### **Amendments to conditions**

<u>Condition</u>	<u>Comment</u>
<i>Terms of consent</i>	No issue is raised with exception to the discussion relating to landscaping as below.
<i>B12 Landscaping</i>	The landscape plans are already approved and the submitted modification plans do not address the requirements of B12. These will be reviewed by the certifier not the City.

C39  
*Remediation  
- Site audit  
report and  
site audit  
statement*

Not supported. The proposed condition C39 stipulates that a Site Audit Statement be issued prior to 'completion of the structure', however, the condition should ensure that a Site Audit Statement is issued prior to the issue of a Construction Certificate associated with the built form of the development to ensure appropriate remediation has taken place before any significant structures are in place and that the certifier can ensure the SAS (and any LTEMP) is submitted with the CC documentation. It is recommended that this condition be amended to specify that a SAS be submitted at a particular Construction Certificate stage associated with the built form of the development.

In regard to referencing dedication of land to Council, no issue is raised however, it should be noted that the specific design of the public domain is currently under design development and subject to negotiations with Council, some land may be required to be dedicated to Council for footpath widening. Until until a final agreement regarding the ownership of the public domain is reached, it is recommended that this part of the condition be retained.

E16 *Car  
parking*

No issue is raised.

E17 *Bicycle  
parking and  
end-of-trip  
facilities*

No issue is raised in regard to the staging however, clarification is sought as to where the location of the retail visitor bicycle spaces are. The design of the public domain is currently being discussed with Council's Public Domain Unit and the final location of bicycle spaces has not been determined and will be assessed on the merits of the use of public space.

While the location of retail visitor bicycle spaces in publicly accessible spaces is generally supportable, without the final confirmation of bicycle spaces within the public domain from Council's Public Domain Unit, the amendment of the condition to remove the requirement to locate bicycle spaces within the basement is not supported. Further, should the retail visitor bicycle spaces as required by the consent be placed within public domain areas under control by Council, these should be in addition to any general public bicycle spaces agreed to through the preparation of public domain plans.

E20 *Works  
as executed  
drawings*

No issue raised.

E24

Clarification is required whether stormwater will be connected to Botany Road (under

*Stormwater* control of Transport for NSW) or the City's stormwater system.  
*completion*  
*deed of*  
*agreement*  
*and positive*  
*covenant*

Please contact Marie Burge on ph: 02 9265 9333 if you need to discuss your request.

A handwritten signature in black ink, appearing to be 'AR' or similar initials, enclosed within a circular loop.

Andrew Rees  
Area Planning Manager